

to pay the annual salaries of the Executive and Cabinet and Judicial officers;

Which was referred to the Committee on Finance and Taxation.

Under a suspension of the rule, Mr. Hendry introduced Senate bill No. 10, to be entitled an act to amend an act entitled an act for the Assessment and Collection of Revenue;

Which was referred to the Committee on Finance and Taxation.

Mr. Walker moved that the Senate adjourn until 10 o'clock to-morrow morning;

Which was agreed to, and the Senate thereupon adjourned.

WEDNESDAY, January 17, 1877.

The Senate met pursuant to adjournment.

The President in the chair.

The roll was called, and the following Senators answered to their names:

Messrs. Barnes, Cottrell, Hendry, Johnson, Long, Lykes, McCaskill, McKinnon, McMeekin, Osgood, Patterson, Richard, Wallace and Weeks—14.

A quorum present.

Prayer by the Chaplain.

Mr. Osgood moved that the further reading of the journal be dispensed with;

Which was agreed to, and the journal was corrected and approved.

The following communication from the Commissioner of Lands and Immigration was read:

OFFICE OF COMMISSIONER OF LANDS AND IMMIGRATION, }  
TALLAHASSEE, January 16, 1877. }

HON. NOBLE A. HULL,

*President of the Senate:*

SIR:—By direction of the Board of Trustees of the Internal Improvement Fund, I herewith enclose a copy of a resolution adopted by the Board to-day, and to which the attention of the Senate is respectfully invited. Very respectfully,

HUGH A. CORLEY,

*Sec. Board of Trustees In. Im. Fund.*

*Resolved*, That the Legislature of Florida be requested by this Board to pass a law authorizing the Governor to appoint

an agent, to be approved by this Board, to reside in New York city, for the purpose of inducing immigration to this State; and appropriate the sum of fifteen hundred dollars per annum to defray the expenses of such agency.

Which, on motion of Mr. Cottrell, was referred to the Judiciary Committee.

A message was received from the Governor by the hands of his private Secretary.

Under the suspension of the rule, Mr. McMeekin introduced Senate Bill No. 11:

To be entitled an act to repeal the License Tax on Doctors of Medicine;

Which was read, and referred to the Committee on Finance and Taxation.

The Committee on Judiciary made the following report:

SENATE CHAMBER,

TALLAHASSEE, FLA., January 17, 1877. }

TO THE HON. NOBLE A. HULL,

*President of the Senate:*

SIR: Your Committee on the Judiciary, to whom was referred Assembly Bill No. 1, to be entitled an act to amend the 2nd, 29th, 35th, 36th, 58th and 68th sections, and repealing the 53rd and 54th sections of an act entitled an act relating to proceedings before Justices of the Peace and judgments of Justices' Courts, approved February 27, 1875, beg leave to report that they have had the same under consideration, and have instructed me to report the same back to the Senate with the recommendation that the accompanying amendments be made thereto, and that the bill as thus amended do pass.

Respectfully submitted,

W. D. BARNES.

Mr. Barnes moved the adoption of the report;

Which was agreed to.

The Chairman of the Committee on Appropriations made the following report:

SENATE CHAMBER,

TALLAHASSEE, FLA., January 17, 1877. }

TO THE HON. NOBLE A. HULL,

*President of the Senate:*

SIR: Your Committee on Appropriations, to whom was referred Senate Bill No. 9, entitled an act to appropriate money to pay the annual salaries of the Executive, and Cabinet, and Judicial officers of this State, have examined the same and recommend that it do pass.

H. T. LYKES, Chairman.

Which was read, and the accompanying bill placed among the orders of the day.

The Committee on Engrossed Bills made the following report:

SENATE CHAMBER,  
TALLAHASSEE, FLA., January 17, 1877. }

TO THE HON. NOBLE A. HULL,  
*President of the Senate:*

SIR: Your Committee on Engrossed Bills, to whom was referred Senate Bill No. 6, as amended, for the relief of John B. Ross, have examined the same and find it correctly engrossed.

Respectfully submitted,

F. M. WEEKS, Chairman.

Which was received and read.

#### ORDERS OF THE DAY.

Assembly Bill No. 13:

To be entitled an act to procure a Legal Canvass of the Electoral Vote of the State of Florida as cast at the Election held on the 7th day of November, A. D. 1876.

Was read a second time, with the amendments offered by the Judiciary Committee.

Mr. Cottrell moved the adoption of the amendments;

Which was agreed to.

Mr. Durkee offered the following minority report:

The undersigned, members of the Judiciary Committee, to whom was referred Assembly bill No. 13, to be entitled an act to procure a legal canvass of the electoral vote of the State of Florida, as cast at the election held on the 7th day of November, A. D. 1876, beg leave to submit the following minority report:

The object of this bill is apparent. It is intended to legalize the proceedings of an Electoral College held without authority of law. The Electoral College met on the 6th day of December last, pursuant to the requirements of the laws of this State and of Congress, and performed the duties required of it by those statutes. Is this act intended by its framers to be supplemental to and amendatory of that of the Legislature of 1872? If not, we suggest its authors append a repealing clause. We also suggest that the majority give consideration to the doctrine of repeal of statutes by implication. If it should happen that this, being the last act, and inconsistent with that of 1872, repeals the latter, the State would be without a law upon the subject. The purpose of the bill is *in presenti*; having accomplished that, its force will be spent.

On the 6th day of December last a so-called College of Elec-

tors assembled in the Capitol of this State, and proceeded to cast the vote of the State of Florida for Samuel J. Tilden for President, and Thomas A. Hendricks for Vice-President. It had no sanction of law whatever—nothing to invest it with legality, but a certificate of election derived from the late Attorney-General, who, at the time, was a member of the Board of State Canvassers. On the same day the regularly elected and commissioned College of Electors assembled in this Capitol, and cast the vote of the State of Florida for Rutherford B. Hayes for President, and William A. Wheeler for Vice-President. This College had in their possession the certificates of election from the Governor of the State, who issued such certificates upon the certified declaration of the lawful Board of State Canvassers. These two returns were forwarded to the Vice President of the United States, and are now supposed to be in the custody of that officer. We submit this brief of facts to the majority as the basis of a suggestion that the only contest they can hope to make against the Hayes return must be upon the merits of the late Attorney-General's college. In that point of view may not this bill be used as an argument against the legality of that body? Will it not be said that that college was so irregular that it needed subsequent legislation to make its action valid, and the effort so to legalize their action must be deemed abortive?

We say the Board of State Canvassers, predecessors of the honorable gentlemen who now constitute that Board by appointment of Governor Drew, counted the returns and declared the result of their canvass, and issued certificates to the parties whom they found elected, and then, their duties all performed, they adjourned *sine die*. The law is, that such duty once fully performed is performed once and forever, and cannot be repeated. We say further that this is no doubtful question in the Courts. See 45 Mo., p. 150; 33 N. Y., p. 603; 32 Barbour, p. 55; 15 La. An., p. 464; 1 Bartlett, p. 328; 2 Minn., 346; 1 Bartlett, p. 574. Other authorities could be cited. We think, however, that it may prove more interesting to this Senate, to which we are making report, to learn that in the contested election case of Gooding vs. Wilson the House of Representatives of the Forty-second Congress have laid down a precedent in direct conflict with the proposed action of this body.

There is, however, one important phase of this matter which has not been considered here or elsewhere. This measure does not propose to afford any means of arriving at a more correct result than that already found by the Canvassers. We insist, therefore, that there should be given to the Board a further power of investigation, so that when they have performed their labor it may bring such a result as will secure to

itself some degree of public confidence. We understand that it appears beyond question, by evidence on file in the Secretary of State's office, that in at least one county the elections were held at places not authorized or appointed by law; in other words, that the elections were mere mass conventions, polls having been opened wherever a large crowd happened to meet; that pretended Inspectors were chosen by such mass meetings, and votes cast by irresponsible persons were received by irresponsible persons having no sign of official character; that no person was authorized by law to administer oaths to the Inspectors or to voters, and consequently the law could not punish illegal voting or false swearing at the polls. And, indeed, the whole election in that county was a farce, and upon the votes thus cast in that county, this Legislature, by this act, proposes to produce a result which shall affect the choice of a President and Vice-President of the United States. The late Canvassing Board may or may not have included the vote of Manatee county in their canvass; but true it is, that upon an election so held the political majority here solemnly propose to hinge such important results. The vote of that county was totally illegal, as we understand from the record. This Legislature cannot make it legal. We have no means of knowing what the vote in that county would have been if the people had turned out and voted at legal polls, which they did not do.

We therefore offer the following amendment:

SEC.—In canvassing the returns of the election, the Board of State Canvassers shall not include the votes from any county which were cast at places or polls other than at legally established places.

JOSEPH H. DURKEE,  
JOHN WALLACE,  
*Members Judiciary Committee.*

Mr. Cottrell asked that it be spread upon the journal;  
Which was agreed to.

Mr. Meacham moved to strike out in section 3 of the amendment the words "members of the board."

Mr. Cottrell moved to lay the amendment on the table;

Upon which the yeas and nays being called for by Messrs. Osgood, Wallace and Hill, the vote was:

Yeas—Messrs. Barnes, Brantley, Cottrell, Hendry, Johnson, Lykes, McCaskill, McKinnon, McMeekin, Orman, Patterson, Richard, Walker and Weeks—14.

Nays—Messrs. Howell, Long, Meacham, Osgood and Wallace—5.

So the motion to lay upon the table prevailed.

Mr. Long moved to strike out section 4 of the amendment.  
Mr. Cottrell moved to lay the motion on the table;  
Which was agreed to.

Mr. Cottrell moved the adoption of the report of the committee on Assembly bill No. 13;

Upon which the yeas and nays being called for by Mr. Meacham, the vote was:

Yeas—Messrs. Barnes, Brantley, Cottrell, Hendry, Johnson, Lykes, McCaskill, McKinnon, McMeekin, Orman, Patterson, Walker and Weeks—13.

Nays—Messrs. Durkee, Ferguson, Hill, Howell, Long, Meacham, Osgood, Richard and Wallace—9.

So the report was adopted.

Mr. Cottrell moved to suspend the rule, and that the bill be read a third time and put upon its passage;

Upon which the yeas and nays being called for by Messrs. Meacham, Osgood and Wallace, the vote was:

Yeas—Messrs. Barnes, Brantley, Cottrell, Hendry, Johnson, Lykes, McCaskill, McKinnon, McMeekin, Orman, Patterson, Richard, Walker and Weeks—14.

Nays—Messrs. Durkee, Ferguson, Howell, Long, Meacham, Osgood and Wallace—7.

So the rule was suspended.

The bill being placed upon its passage, and the yeas and nays being called for, the vote was:

Yeas—Messrs. Barnes, Brantley, Cottrell, Hendry, Johnson, Lykes, McCaskill, McKinnon, McMeekin, Orman, Patterson, Richard, Walker and Weeks—14.

Nays—Messrs. Durkee, Ferguson, Hill, Howell, Long, Meacham, Osgood and Wallace—8.

So the bill passed, title as stated.

Ordered that the same be certified to the Assembly.

Assembly bill No. 1 to be entitled an act to amend the 2d, 29th, 35th, 36th, 58th and 68th sections, and repealing the 53d and 54th sections of an act entitled an act relating to proceedings before Justices of the Peace and Judgments of Justices' Courts, approved February 27th, 1875, was taken up.

Mr. Durkee moved that the further consideration of the bill be postponed until 4 o'clock;

Which was agreed to.

Mr. Cottrell made the following motion:

Mr. Cottrell moves the appointment of a committee who shall inform the Assembly that the Senate has passed the Assembly bill to be entitled an act to procure a legal canvass of the electoral vote of the State of Florida as cast at the election held on the 7th day of November, A. D. 1876, amended as

shown therein, in which amendment they ask the concurrence of the Assembly ;

Which was agreed to, and the following committee appointed : Messrs. Cottrell, McKinnon and Ferguson.

The Senate went into Executive Session.

The doors being opened, Messrs. Cottrell, McKinnon and Ferguson, returned to the bar of the Senate and reported the performance of their duty, and were discharged.

Senate bill No. 9 :

To be entitled an act to appropriate money to pay the annual salaries of the executive and cabinet and judicial officers, Was taken up and read a second time, and placed among the orders of the day for to-morrow.

Mr. Durkee offered the following resolution :

*Resolved*, That chairmen of Standing Committees of this Senate be authorized to procure from the Public Printer printed slips containing the names of members of their several committees, and a notice to such members that the committee will meet at a time and place, to be named in said notice ; and that the chairmen of committees shall fill up these slips and give to the several members of their committees full notice of the time and place of such meeting ;

Which was adopted.

On motion, the Senate adjourned until 10 o'clock to-morrow morning.

#### REMOVALS.

R. S. Tucker from office of Sheriff of Gadsden county.

B. F. Tidwell from the office of County Judge of Madison county.

#### SENATE CONFIRMATIONS.

J. C. DuPont to be Sheriff of Gadsden county.

Norman T. Scott to be Assessor of Revenue for Gadsden county.

R. M. Wetherspoon to be County Judge of Madison county.

F. B. Smith to be Assessor and Collector of Revenue for Baker county.

John R. Herndon to be County Judge of Baker county.

F. J. Pons to be Clerk of Circuit Court of Baker county.

THURSDAY, January 18, 1877.

The Senate met pursuant to adjournment.

Mr. President in the chair.

The roll was called, and the following Senators answered to their names :

Messrs. Barnes, Brantley, Cottrell, Durkee, Hendry, Johnson, Long, McCaskill, McMeekin, Meacham, Orman, Osgood, Patterson, Richard, Walker and Wallace—16.

A quorum present.

Prayer by the Chaplain.

Mr. Orman moved the further reading of the journal be dispensed with ;

Which was agreed to, and the journal corrected and approved.

The following message was received from the Assembly.

ASSEMBLY HALL,  
TALLAHASSEE, FLA., January 17, 1877. }

HON. NOBLE A. HULL,

*President of the Senate :*

SIR—I am directed by the Assembly to inform the Senate that the Assembly has passed Assembly bill No. 19 :

To be entitled an act for the relief of John A. D. Branch, And respectfully request the concurrence of the Senate therein.

Very respectfully,

WM. FORSYTH BYNUM,  
*Chief Clerk of the Assembly.*

Which was read, and the accompanying bill placed among the orders of the day.

Also the following :

ASSEMBLY HALL,  
TALLAHASSEE, FLA., January 17, 1877. }

HON. NOBLE A. HULL,

*President of the Senate :*

SIR—I am instructed by the Assembly to inform the Senate that the Assembly has adopted Senate Joint Resolution for a Compilation of the Constitution, as amended, and for other purposes.

Very respectfully,

WM. FORSYTH BYNUM,  
*Chief Clerk of the Assembly.*

Which was read.

Also the following :